

2017 Court Rules

*Court Services Division
Administrative Office of the Courts*

This document summarizes new court rules and rule amendments adopted by the Arizona Supreme Court during its August 2017 rules agenda. The summary includes potential impacts for several of these rule changes.

- Rule petition numbers in this summary (e.g., R-17-0000) include a hyperlink to the Court's Order promulgating the new or amended rule. Each Order contains the full text of the changes, and readers may want to click on a hyperlink to review the text.
- The effective date of rule changes in this 2017 summary is **January 1, 2018**, except as noted in the summary.
- This summary includes most of the rule changes affecting trial courts, but it does not include every rule change. It does not include rule changes regarding the practice of law or the admission to practice, or that concern judicial discipline, and it excludes some rule changes previously adopted on a temporary basis. See the Court's [August 29, 2017 minutes](#) and the Court's [recent rules amendments webpage](#) for further information concerning rules on these and other topics.

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Rules of Civil Procedure

Rule	Affects	Summary and Impact
<p>Rules 16, 16.1, 26.2, 38, and 38.1</p> <p>R-17-0006</p>	<p>Superior Judges Clerks Administrators</p>	<p>Summary: This Order concerns the rules in medical malpractice cases. An attachment to the Order shows changes to Rule 16.1. Other rule amendments adopted by this Order are provided in R-17-0010, which this summary discusses below.</p> <p>Under the amendments to Rule 16.1, the court may require parties to participate in one or more pretrial settlement conferences. The amendments clarify that parties submit, but do not file, settlement memoranda. Unless the court orders otherwise, settlement conference memoranda must be served on every other party. Rule 16.1(d)(1) was amended slightly to explicitly authorize a court, during a scheduling conference, to determine “whether and when any examinations will take place under Rule 35.” The provision was moved from current Rule 16(e)(1).</p> <p>Current Rule 26.2 (“exchange of records and discovery limits in medical malpractice actions”) has been relocated to Rule 26.3 and retitled (“exchange of medical records and timing of expert disclosure in medical malpractice actions”). Rule 26.3(a)(1) now requires that the plaintiff, in addition to serving defendant with copies of all available medical records, must provide a medical records authorization to allow the defendant to obtain copies of plaintiff’s medical records from their original source. Rule 26.3(a)(3) further provides that if a defendant uses that authorization to obtain records, complete copies of any non-duplicative records not previously produced must be furnished at that defendant’s sole expense to all other parties. A new Rule 26.3(b) requires parties to disclose the identities and opinions of standard of care and causation experts simultaneously, unless the parties agree or the court orders otherwise for good cause. (Virtually the same provision is currently in Rule 16(e)(2).) The discovery limits provisions of current Rule 26.2(b) are deleted. Under new Rule 26.2(b), medical malpractice cases generally belong in Tier 3.</p> <p>Impact: Under amendments to Rule 38.1(d), the clerk must place a civil action on the dismissal calendar if <u>210</u> days (rather than 270 days under the current rule) have passed</p>

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		since the action was commenced and the parties to the action have not filed a joint report and proposed scheduling order. The separate provision under this rule for medical malpractice actions is deleted.
<p>Rule 5.4 [new]</p> <p>R-17-0007</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> This new rule provides procedures for sealing and unsealing documents, thereby filling a gap in the civil rules on this subject.</p> <p><u>Impact:</u> The term “document” as used in this rule applies not only to documentary material, but also to exhibits, records, or any other filing. A document may not be filed under seal in an unsealed civil action unless authorized by statute, rule, or court order. A court may order that a document be filed under seal only if it finds the existence of certain factors in a written order. The order may protect all or only a portion of a document, and the rule provides procedures for how to proceed in both circumstances. The rule specifies the Clerk’s duties when the court orders sealing of a document. The rule also details procedures on a motion or stipulation to file a document under seal; the manner of lodging documents to be filed under seal, and the Clerk’s duties upon lodging; and documents that are governed by a protective order or confidentiality agreement. There are also provisions concerning the treatment of a sealed document in the record on appeal.</p> <p>The superior court should establish processes that facilitate this new rule.</p>
<p>Various rules</p> <p>R-17-0009</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> This Order makes technical amendments to the restyled civil rules adopted by Rules Order R-16-0010.</p> <p><u>Impact:</u> Information only.</p>
<p>Rules 8, 8.1, 11, 16, 26, 26.1, 26.2, 29, 30, 31, 33-37, 45; 26.2 and 45.2 [new]; 16.3 [abrogate]; Rule 84</p> <p>R-17-0010</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These new and amended rules were proposed by the Supreme Court’s Committee on Civil Justice Reform. These rules make substantial changes, among other things, to procedures for case management, discovery and disclosure, electronically stored information (“ESI”), and sanctions.</p> <p>➤ Click here for a 10-page summary of these changes.</p>

<p><i>July 1, 2018 effective date</i></p>		<p><u>Impact:</u> Judges, clerks, and administrators should be familiar with the concepts of tiering under these rules. They should expect motions to alter the assigned tier and to exceed the discovery limits for the assigned tier. A complaint and a cover sheet must refer to the discovery tier to which a case belongs. Proportionality is a guiding principle of discovery.</p> <p>Parties are required to have an early meeting no later than 30 days after the filing of a response to the complaint or 120 days after the action commences. Parties must file a Joint Report and Proposed Scheduling Order within 14 days after the early meeting.</p> <p>There are new provisions regarding disclosure generally, as well as for medical malpractice cases specifically.</p> <p>New Rule 26(d) provides an expedited procedure for resolving discovery and disclosure disputes. Filings under this rule, which are not motions, must be in the form of a joint statement not exceeding three pages. The court must issue a minute entry containing the resolution of the dispute.</p> <p>A new Rule 45.2 allows parties and non-parties to ask the court to resolve disputes regarding requests to preserve ESI during or pending litigation.</p> <p>Under Rule 38.1(d), the clerk must place a civil action on the dismissal calendar if <u>210</u> days (rather than 270 days under the current rule) have passed since the action was commenced and the parties to the action, other than an arbitration action, have not filed a joint report and proposed scheduling order. The separate provision under this rule for medical malpractice actions is deleted.</p> <p>**Although these rule change are generally applicable to cases filed after July 1, 2018, some of the changes apply to cases that are pending on that date. The Court's Order details the applicability criteria.</p>
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Rules of Criminal Procedure

Rule	Affects	Summary and Impact
<p>All criminal rules</p> <p>R-17-0002</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> This Order adopted, with modifications, a restyled set of criminal rules proposed by the Court’s Task Force on the Arizona Rules of Criminal Procedure. The Order abrogates the current version of the criminal rules, effective on January 1, 2018, except to the extent that applying a new rule would be infeasible or work an injustice. As with last year’s restyling of the civil rules, the Court has made a significant number of changes to the criminal rules. Every rule has been restyled, and some rules include substantive changes. Judges, clerks, and administrators should become familiar with these changes.</p> <p>➤ Click here for an 18-page summary of those changes.</p> <p><u>Impact:</u> Here are just a few of the changes.</p> <p>There are major organizational changes in Rule 1. The substance of current Rule 35 concerning the form, content, and service of motions has been relocated to Rule 1. Rule 1 also includes provisions for the computation of time, and the form, filing, and service of documents, which were modeled on the recently restyled civil rules.</p> <p>Rule 7 has been extensively revised. There are new definitions in Rule 7.1 for “unsecured appearance bond,” “cash bond,” and “deposit bond.” Rule 7.2 details procedures for determining whether a defendant is not eligible for release. Rule 7.2(c) clarifies that pending an appeal, the court may not release a defendant who was sentenced to prison unless the court finds that due to the defendant’s physical condition, confinement would endanger the defendant’s life. Rule 7.6 provides that when the court exonerates a cash or deposit bond, it must order return of the entire amount deposited unless it was properly forfeited or the bond depositor authorizes that it be applied to a financial obligation. See further the amendments to Rule 7 discussed in R-17-0015 below.</p> <p>Rule 11 differentiates proceedings to determine a defendant’s competency from examinations of a defendant’s mental status at the time of the offense; the latter are governed by a new Rule 11.8.</p>

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		<p>Rule 17.7 is a new rule that provides procedures for submitting a case on the record.</p> <p>Rule 20(a) clarifies that the defendant is not required to proceed with the trial until the court rules on the motion for judgment of acquittal. Revisions to Rule 20 permit a defendant to raise after the verdict that there is no substantial evidence to support the verdict, even if the defendant did not raise the issue earlier.</p> <p>Rule 30, previously governing appeals from limited jurisdiction courts, is now reserved. Those appeals are governed by the SCRAP-Criminal set of rules.</p> <p>In Rule 31, the term “perfection of an appeal” has been replaced with the more specific description, “the clerk distributes a notice that the record on appeal has been filed.”</p> <p>There are new provisions in Rules 8, 27, 31, and 32 that require the court to consider victims’ rights.</p>
<p>Rule 23.1</p> <p>R-17-0014</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> The amendments to Rule 23.1 permit a jury foreperson to sign a verdict form by using a juror number and initials in lieu of a signature.</p> <p><u>Impact:</u> Instructions to the jury should be modified to reflect this change.</p>
<p>Rules 4.2, 5.1, 5.4, 7.2, 7.4, 26.12, and 27.8</p> <p>R-17-0015 Aug. 31, 2017 Order</p> <p>AND</p> <p>R-17-0015 Sept. 28, 2017 Order</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These rule changes address: (1) how courts deal with defendants who have failed to timely pay their monetary obligations; and (2) procedures for finding a person not eligible for bail under the Arizona Constitution. Note that there are two R-17-0015 Orders.</p> <p>Regarding the amendments to Rules 26.12 and 27.8:</p> <p>If a defendant fails to timely pay a fine, restitution, or other monetary obligation, and fails to respond to a court notice informing the defendant of consequences and resolution options, the court may issue an order to show cause. To obtain the defendant’s appearance, the court must issue a summons unless there is reason to believe a warrant is necessary. A prosecutor who requests a warrant, or a judge who orders one,</p>

<p><i>Amendments to Rules 26.12 and 27.8 are effective January 1, 2018</i></p> <p><i>Amendments to Rules 4.2, 5.1, 5.4, 7.2, and 7.4 are effective April 2, 2018</i></p>	<p>must state reasons for issuing a warrant rather than a summons. [Rule 26.12(c)(3)]</p> <p>If the court finds the defendant in contempt for failure to pay a monetary obligation, before ordering the defendant incarcerated the court must determine that no reasonable measures other than incarceration are adequate to meet the State’s interests, and it must permit the defendant a reasonable time to pay in full or make other payment arrangements. [Rule 26.12(c)(4)]</p> <p>An admission made by a probationer at any hearing in the same case that concerns the probationer’s failure to pay a monetary obligation imposed in the case is inadmissible in the probation violation hearing, unless the probationer was represented by counsel at the hearing in which the probationer made the admission. [Rule 27.8(b)(4)]</p> <p>Regarding the bail eligibility rules:</p> <p>At the defendant’s initial appearance, the magistrate must determine whether release on bail is prohibited because there is probable cause to believe the defendant committed specified offenses (a capital offense, sexual assault, or any felony while the defendant was already on pretrial release for another felony); or committed a felony for which release on bail is prohibited because the defendant poses a substantial danger and no conditions of release will reasonably assure the safety of the victim, any other person, or the community. If the magistrate makes such a determination, the magistrate must schedule a bail eligibility hearing under Rule 7.2(b). [Rule 4.2(a)]</p> <p>The amendment to Rule 5.4(a) (“holding a defendant to answer”) provides that the rule’s requirements are satisfied if a probable cause finding was made at a bail eligibility hearing under Rule 7.2(b)(4). Under Rule 7.2(b)(4), the parties may stipulate that a probable cause determination made at a bail eligibility hearing satisfies Rule 5’s requirements, and in that event the court need not schedule a preliminary hearing.</p> <p>Revised Rule 7.2(b) has a modified title: “before conviction: defendants charged with an offense not eligible for bail.” The first two subparts of revised rule proceed to describe (1) when a defendant is not eligible for release because the proof is</p>
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		<p>evident or the presumption great that the defendant committed a capital offense, sexual assault, or any other felony while on pretrial release for another felony; and (2) when a defendant is not eligible for release because the defendant is charged with a felony and the court finds (a) proof evident or presumption great that the defendant committed the offense; (b) clear and convincing evidence that the defendant poses a substantial danger to the victim, any other person, or the community, or, on certification by the State's motion, that the defendant engaged in conduct constituting a dangerous crime against children or terrorism; and (c) no condition of release will reasonably assure the safety of the victim, any other person, or the community. Subpart (3) details bail eligibility considerations, such as the defendant's history, a pretrial release assessment, and a victim statement. Subpart (4) sets out the process for a bail eligibility hearing. The rule provides that the court must hold a bail eligibility hearing between 24 hours and 7 days after the defendant's initial appearance. Even if it does not find proof evident or presumption great at the hearing, the court must determine for purposes of release whether there is probable cause that the defendant committed an offense. Under Rule 7.4(b), each party has the right to present and cross-examine witnesses at a bail eligibility hearing.</p> <p><u>Impact:</u> The amendments to Rule 26.12 may require revisions to court forms. The court's notice to the defendant concerning nonpayment of a monetary assessment must inform the defendant of the consequence of non-payment and resolution options. When the court issues a warrant on an order to show cause, the record must reflect why a warrant was utilized rather than a summons.</p> <p>The amendments to the bail eligibility rules are relatively intricate. Judges, clerks, and court administrators should review those rules and establish processes for implementing those amendments. Education concerning these changes is also necessary for judicial officers and court staff who handle felony cases. Amendments to Rules 4.2, 5.1, 5.4, 7.2, and 7.4 are effective April 2, 2018.</p>
<p>Rules 32.4, 32.5, 32.6, and 32.8</p> <p>R-17-0024</p>	<p>Superior Justice Municipal</p>	<p><u>Summary:</u> Amendments proposed by this rule petition and adopted by this Order are included in the revised criminal rules shown in R-17-0002 above.</p>

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	Judges Clerks Administrators	<p><u>Impact:</u> Note the following:</p> <p><i>Rule 32.4:</i> Amendments to this rule no longer require the clerk to send copies of a Rule 32.4 notice to the defendant, defense counsel, and the prosecutor if the court has summarily dismissed the notice because it was untimely filed. Modified provisions for determining indigence permit the court to rely on a previous determination. In an of-right proceeding, a notice filed by defense counsel who find no colorable claims must include a summary of the facts and the procedural history of the case, and must identify the specific materials counsel reviewed and when counsel provided those materials to the defendant.</p> <p><i>Rule 32.5:</i> In capital cases, the allowable length of a petition or response is increased from 40 to 80 pages, and the reply is increased from 20 to 40 pages.</p> <p><i>Rule 32.6:</i> The amendments delete a requirement in the current rule that the court must review a petition within 20 days after the due date of the defendant's reply. If the court does not summarily dismiss the petition following its review, it must set a status conference or a hearing within 30 days on claims that present a material issue of fact, and it may set a hearing on claims that present only a material issue of law.</p> <p><i>Rule 32.8:</i> The amended rule deletes a current requirement that the court enter its decision within 10 days after an evidentiary hearing.</p>
<p>Rule 7.3</p> <p>R-17-0030</p>	<p>Superior Justice Municipal</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> Provisions proposed in this rule petition were adopted as modified by this Order and included in the revised criminal rules shown in R-17-0002.</p> <p><u>Impact:</u> Concerning a victim, new Rule 7.3(c) provides for the following additional conditions of release:</p> <p>“Additional Conditions. The court must order the defendant not to contact a victim if such an order is reasonable and necessary to protect a victim from physical harm, harassment, intimidation, or abuse. The court also may impose as a condition of release one or more of the following [non-monetary and monetary] conditions, if the court finds the condition is reasonable and necessary to secure the defendant's appearance or to protect another person or the</p>

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		community from risk of harm by the defendant. In making determinations under this rule, the court must consider the results of a risk assessment approved by the Supreme Court and, if provided, a law enforcement agency's lethality assessment."
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Rules of the Supreme Court ("SCR")

Rule	Affects	Summary and Impact
Rule 94 R-17-0012	Judges	<p><u>Summary:</u> This rule petition noted that Clerks of Superior Court maintain court records using at three separate case management systems with varying functional options and abilities: Pima County's case management system, AGAVE; Maricopa County's case management system, iCIS; and for the remaining 13 counties, the AJACS case management system. The Clerks filed this petition to define and clarify responsibilities the Clerks have in common, regardless of the case management system they use.</p> <p><u>Impact:</u> A change to Rule 94(c) ("Court Docket") would allow, but not require, the Clerk to capture information related to the issuance of subpoenas. Another change deleted Rule 94(e) ("Calendars") from the rule because Clerks do not prepare or post calendars for their courts in many counties. The amendments also delete Rule 94(g) ("Records") because other authorities cover its provisions.</p> <p>Rule 94(f) ("Matters to Be Recorded and Method of Recording") was also amended because the existing rule lists only a limited number of documents that are submitted to the Clerks, and the only documents the Clerks still record are marriage licenses—which do not appear in the existing rule. As amended, this section confirms the Clerks' existing duties and generally references the authorities of those requirements.</p>

Arizona Rules of Evidence

Rule	Affects	Summary and Impact
Rules 803(16) and 902	Superior Justice Municipal	<p><u>Summary:</u> Rule 803(16) provides a hearsay exception for "ancient documents;" that is, if a document is more than 20 years old and appears authentic, it is admissible for the truth</p>

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R-17-0003 AAM	Judges	<p>of its contents. Because electronically stored information can be retained for more than 20 years, a strong likelihood exists that the ancient documents exception will be used more frequently in the future. The amended rule substitutes “prepared before January 1, 1998” for the current “at least 20 years old.”</p> <p>The amendments to Rule 902 (Evidence That Is Self-Authenticating) add two new subdivisions that would allow certain electronic evidence to be authenticated by a certification of a qualified person in lieu of that person’s testimony at trial. New Rule 902(13) allows self-authentication of machine-generated information (such as a web page) upon a submission of a certificate prepared by a qualified person. New Rule 902(14) provides a similar certification procedure for a copy of data taken from an electronic device, media, or file. The purpose of the two new subdivisions is to make authentication easier for certain kinds of electronic evidence that, under current law, would likely be authenticated under Rule 901 but only after calling a witness to testify to authenticity. The amendments should alleviate the unnecessary costs of this production by allowing the qualifying witness to establish authenticity by way of certification.</p> <p>Amendments to these two rules are accompanied by lengthy explanatory comments. Note that the federal Advisory Committee on Rules of Evidence has proposed virtually identical changes in the corresponding federal rules. The U.S. Supreme Court approved those proposals in April 2017, and are scheduled to go into effect on December 1, 2017.</p> <p><u>Impact:</u> Information only.</p>
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Rules of Juvenile Procedure

Rule	Affects	Summary and Impact
Rules 41, 48.1, and 49 R-17-0018	Superior Judges Clerks Administrators Juvenile Court	<p><u>Summary:</u> These rule changes correct statutory citations.</p> <p><i>Rule 41(A):</i> The amendments change a reference from A.R.S. § 8-807(F)(2) to A.R.S. § 8-807.01.</p>

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<p><i>Effective the date of the Order (Aug. 31, 2017)</i></p>	<p>Directors</p>	<p><i>Rule 48.1(C)(2)(a):</i> The amendments change “(a) The child has not been removed pursuant to article 2, chapter 10, title 8 of the Arizona Revised Statutes” to read: “(a) The child has not been removed pursuant to Article 9, Chapter 4, Title 8 of the Arizona Revised Statutes.”</p> <p><i>Rule 49:</i> The Committee Comment references A.R.S. § 8-809. That statute was repealed by Laws 2015, Ch. 257, §15. The Committee Comment is therefore deleted.</p> <p><u>Impact:</u> Information only.</p>
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Rules of Family Law Procedure (“ARFLP”)

Rule	Affects	Summary and Impact
<p>Rule 67.2</p> <p>R-17-0017</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> This Order abrogates current Rule 67(C) [“arbitration”], and adopts new Rule 67.2 [“Uniform Family Law Arbitration Rule”].</p> <p><u>Impact:</u> The rule is lengthy (it contains sections A through X.) Section B provides that the rule governs arbitration of a family law dispute, although Section C provides that family law arbitration shall be conducted according to A.R.S. §12-3001 through 3029, the Revised Uniform Arbitration Act, as supplemented by Rule 67.2. Section B also provides that the rule does not authorize an arbitrator to make an award that grants a legal separation, dissolution of marriage, or annulment. Section F (“motion for judicial relief”) authorizes the court to determine the enforceability of an arbitration agreement.</p> <p>Section J allows the arbitrator to enter temporary awards. Section K includes special protections for children and family members if the arbitrator learns that abuse or family violence is occurring. If an arbitrator has a reasonable basis to believe that a child is the subject of abuse or neglect, the rule requires the arbitrator to terminate the arbitration of any child-related disputes and to report the findings to the Arizona Department of Child Safety. In addition, if the arbitrator believes domestic violence is present, the arbitrator must stay the arbitration and refer the parties to court. For arbitration to proceed thereafter, the party at risk of harm must reaffirm the agreement to arbitrate, and the</p>

		<p>court must find that adequate procedures are in place to protect the party from risk of harm or intimidation.</p> <p>Section L (“powers and duties of arbitrator”) provides a long list that includes the authority to interview children and appoint a representative for a child.</p> <p>Section N provides that an award under this rule is not enforceable as a judgment until it is confirmed by the court under Section O. Under Section O, a court cannot confirm an award concerning a child-related dispute unless it finds that the award complies with applicable substantive law and is in the child’s best interests. Section R allows the court to vacate or amend an unconfirmed award. Rule 67.2 also includes provisions for clarification of a confirmed award (Section S), judgment on an award (Section T), modification of a confirmed award or judgment (Section U), enforcement of a confirmed award (Section V), and appeal (Section W).</p>
<p>Rule 23.1</p> <p>R-17-0019</p>	<p>Superior</p> <p>Judges</p> <p>Clerks</p> <p>Administrators</p>	<p><u>Summary:</u> Actions for dissolution of marriage or legal separation must be brought in the county in which the petitioner is residing at the time the action is filed. This new rule should allow the court more control over ensuring adherence to the venue statutes (A.R.S. §12-401, A.R.S. § 25-502 and A.R.S. §25-802) for family law actions.</p> <p><u>Impact:</u> A <i>sua sponte</i> motion to transfer requires a finding that the venue is improper. Before ordering a transfer, the court must provide notice to the parties of its intent to transfer and allow them 10 days to file objections. The transfer must occur no later than 30 days after a resolution management conference has been scheduled.</p> <p>If the court orders a transfer, a transmittal fee under A.R.S. § 12-284 must be paid to the transferring court within 20 days, and a filing fee must be paid to the receiving court within 30 days of its receipt of the file (although the transferring court may order a refund of the original filing fee.) If one of these fees is not paid, the action may be dismissed without prejudice.</p>

Rules of Procedure for Eviction Actions (“RPEA”)

Rule	Affects	Summary and Impact
Rules 3 and 5 R-17-0016	Superior Justice Judges Clerks Administrators	<p><u>Summary:</u> Eviction actions are one of the most common civil cases heard in Justice Court, but the eviction rules do not specify how to compute time. Accordingly, these amendments add new Rule 3(c) (“day of the act or default”) and (d) (“last day”) on how to compute time periods; and they delete Rule 5(e) on the computation of time for service of the summons and complaint because that section is subsumed under the new rules.</p> <p>The new provisions generally follow A.R.S. §§ 1-243(a) and 1-303(A), on computation of time. The new rules differ from Rule 115 of the Justice Court Rules of Civil Procedure, which specifies how time is computed for other civil cases heard by the Justice Courts, because the new eviction rules do not differentiate for time periods less than 11 days or have a special provision on service by mail or e-mail.</p> <p><u>Impact:</u> Judges, clerks, and administrators should assure that their time computations in eviction actions, including forms and instruction sheets, are consistent with these rule amendments.</p>
Rule 13(b)(4) R-17-0020	Superior Justice Judges Clerks Administrators	<p><u>Summary:</u> These amendments permit courts to accept stipulated judgments in eviction actions upon making certain findings. The Court has abrogated current Rule 13(b)(4) on stipulated judgments, and substituted a new provision that provides as follows:</p> <p>“The court may accept a stipulated judgment only when the court finds one of the following:</p> <p style="padding-left: 40px;">A. Both parties or their attorneys personally appear before the court;</p> <p style="padding-left: 40px;">B. The plaintiff’s attorney asserts to the court that the defendant was informed of the right to appear and declined;</p> <p style="padding-left: 40px;">C. The court determines that, because of distance or other circumstances, the defendant cannot personally appear, that good cause exists and it is in the interest of justice to proceed; or</p>

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		<p>D. An attorney for the defendant has signed the stipulation.</p> <p>“Prior to accepting the stipulated judgment, the court must determine that the conditions of Rule 13(a)(1)-(2) [service and a termination notice] and (b)(4) [this provision on stipulated judgments] have been satisfied, and that defendant has signed the warning language on the judgment form to which the defendant stipulated that reads as follows:</p> <p>“WARNING! 1. The plaintiff’s representative is not a court employee. 2. By signing below, you are consenting to the terms of a judgment against you and the plaintiff will now be able to evict you. 3. You may have your wages garnished and the judgment may appear on your credit report. 4. You may lose your right to subsidized housing. 5. You may NOT stay at the property, even if the amount of the judgment is paid in full, unless you get the agreement in writing or get a new written rental agreement.”</p> <p><u>Impact:</u> Forms for stipulated judgments must include the required warning. In-court procedures must follow the procedures specified in the amended rule.</p>
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Miscellaneous Rules

Rule	Affects	Summary and Impact
ARPOP Rule 36 R-17-0023	Superior Justice Municipal Judges Clerks Administrators	<p><u>Summary:</u> A recent amendment to Rule 23(b) [contents of a petition for an order of protection] required a petition to allege “each specific act of domestic violence that will be relied on at [a] hearing.” The new amendment to Rule 36(a) (“relevant evidence and exclusions”) is a parallel provision that requires the court to “limit the scope of the hearing to the allegations of the petition.”</p> <p><u>Impact:</u> Although evidence of other unalleged events may be relevant, the amendment to Rule 36(a) nonetheless limits the scope of the hearing to what petitioner has alleged.</p>
Civil Traffic and Boating, Rule 37	Justice Municipal	<p><u>Summary:</u> These amendments make changes to the Arizona Traffic Ticket and Complaint (“ATTC”) form (Rule 37, Form 11).</p>

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<p>R-17-0034</p> <p><i>Implementation no later than January 1, 2018</i></p>	<p>Judges Clerks Administrators</p>	<p>There is a new box for “interpreter required.” If that box is checked, there are subsequent boxes for “Spanish” or “other language.”</p> <p>There are new boxes for defendant’s telephone (and a box to check if it’s a cell phone) and defendant’s email address. New text on the reverse side of the defendant’s copy now includes the following additional language:</p> <p>“If you are required to pay fines, penalties, fees or other financial obligations as a result of this citation and you are unable to pay, bring this to the attention of court staff or the judge as payment over time or other alternatives may be available. Do not ignore the citation and the responsibility to pay as this may result in additional penalties and costs to you. For more information contact the court or an attorney, or visit the following website: [insert the appropriate website].</p> <p>“By providing your cell phone number you are granting permission to receive texts and other communication regarding court dates, pending payments and other relevant information about your case. Normal text and SMS rates may apply. Please contact the court in which your case is filed should you desire to opt out of this service.”</p> <p><u>Impact:</u> This petition was initially granted on April 27, 2017 on an emergency basis. The August 31, 2017 Order provides that the form has an implementation date of “no later than January 1, 2018.” The Order also provides that “Courts wishing to deviate from the attached Form 11 must obtain permission from the Director of the Administrative Office of the Courts.”</p>
<p>JRAD (All)</p> <p>R-17-0013</p>	<p>Superior</p> <p>Judges Clerks Administrators</p>	<p><u>Summary:</u> These changes were proposed by a State Bar study group to clarify and streamline the Rules of Procedure for Judicial Review of Administrative Decisions (“JRAD”) and associated forms, and to address procedural issues. The existing JRAD are abrogated and the set of amended rules are substituted in their place, effective January 1, 2018.</p> <p><u>Impact:</u> Among the changes is the deletion of Rule 12 concerning discovery. Under these rules, the appeal will be</p>

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		adjudicated on the record, and no new evidence will be admitted. The inclusion of a discovery rule in the current JRAD rules created an erroneous impression of discovery's availability on appeal.
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Rule Petitions That Were Continued

Petition Number and Rule	Summary
Family Law Rule 78 R-16-0020	<p>The petition stated that the purpose of the proposed rule amendment “is to conform the Family Law Rule to the corresponding Rule of Civil Procedure regarding time to request attorney’s fees after a rule on the other pending issues.” The proposed amendment would allow the court to deny a fee award if the court has ruled on all other pending issues except attorney’s fees, and the claimant did not file a timely, separate Rule 83 motion for new trial or amended judgment.</p> <p>The Court previously continued the petition to its August 2017 rules agenda. It now has further continued the petition pending a rule petition by its Task Force on the Arizona Rules of Family Law Procedure.</p>
RPEA 5(a), 5(b)(6), 5(b)(7), et al R-16-0040	<p>This petition would mandate the use of Administrative Office of the Courts-approved forms and notices for eviction actions. The Court continued the petition at its August 31, 2017 Rules Agenda.</p>
Criminal Rule 41, Form 4(a) R-16-0046	<p>This petition proposed an amendment to Form 4(a) that would create a uniform risk assessment form to assist courts making lethality determinations on domestic violence charges. At its August 31, 2017 Rules Agenda, the Court continued the petition pending further order.</p>
Criminal Rules 15.1 and 15.4 R-17-0027	<p>This petition proposed amendments to the disclosure rules to provide procedures for the disclosure of video from officer worn body cameras. The Court’s August 31, 2017 Order extended the period for public comment until October 1, 2017, and referred the matter to the Court’s Digital Evidence Task Force for consideration.</p>
RPEA Rule 9 R-16-0022	<p>This rule petition proposed an amendment to permit parties in justice court eviction actions to exercise a right to a change of judge. The Court previously adopted the amendment on a one-</p>

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	year experimental basis, effective January 1, 2017 pending additional public comments. The Court has now continued the petition for further consideration during the Court's December 2017 Rules Agenda.
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Rule Petitions That Were Denied

Petition Number and Rule	Summary
Civil Rule 4.1(d) R-17-0001	The proposed amendment to Rule 4.1(d) would have addressed service of process at a private, gate-guarded homeowner's association community (HOA) by allowing substitute service on the gate guard.
Criminal Rules 10.2, 15.1, and 16.6 R-17-0021	By amendments to these rules, the petition sought to limit the power of the State to dismiss a case and to refile charges. The amendments would have precluded the State from unilaterally dismissing a case for the purpose of changing the assigned judge after the deadline for doing so had passed, or to restart the deadline for filing a notice of intent to seek the death penalty.
Criminal Rules 20, 24.1, 24.2, 24.3, and 24.4 R-17-0028	If the trial court grants a judgment of acquittal under Rule 20(a) before the verdict, that judgment is not reviewable on appeal and double jeopardy bars a retrial of the defendant on the charge. The petition contended this pre-verdict acquittal process deprives the State of its right to a jury trial on the charge, and denies a crime victim his or her rights to justice and due process. Accordingly, the petition proposed deleting Rule 20(a) and relocating Rule 20(b), which is a judgment of acquittal after a jury verdict as a new Rule 24.1. (A post-verdict judgment of acquittal is reviewable on appeal.) The remaining sections of current Rule 24 would have been re-numbered as Rules 24.2 through 24.5.
Supreme Court Rule 123 R-17-0029	The petition contended that Rule 123 is unconstitutional.
Evidence Rules 801 and 804 R-17-0004	Rule 801 defines hearsay and provides certain hearsay exemptions, including an exemption for prior inconsistent statements of a witness. Rule 804 provides certain exceptions to the rule against hearsay, including former testimony in a criminal case.

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	<p>Ariz. R. Crim. P. 19.3(b) and (c) include similar and overlapping provisions concerning the admissibility of prior inconsistent statements and former testimony. In R-17-0002, the Task Force on the Arizona Rules of Criminal Procedure determined that Rule 19.3, rather than being restyled, should be abrogated as unnecessary, given its consistency with the Arizona Rules of Evidence. The Court's Advisory Committee on Rules of Evidence concurred that Ariz. R. Crim. P. 19.3 should be abrogated as unnecessary and proposed comments to Arizona Rules of Evidence 801(d)(1)(A) and 804(b)(1) that would have documented the abrogation of Rule 19.3. The petition was denied as unnecessary because a comparable comment to former Ariz. R. Crim. P. 19.3, which has been abrogated, has been adopted.</p>
<p>Family Law Rule 98 R-16-0038</p>	<p>The petition proposed a new rule that would have provided jury trials in family law cases.</p>